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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,927	01/22/2002	Kenneth H. Bottom	JM001	1349

7590 04/01/2005  
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EXAMINER

ZEC, FILIP

ART UNIT PAPER NUMBER

3744

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	Application No. 10/051,927	Applicant(s) BOTTOM, KENNETH H.	
	Examiner Filip Zec	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see pages 8-9, filed 1/12/2005, with respect to the rejection(s) of claim(s) 1-12 under 35 USC 102(b) and 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent 5,028,443 to Wade. As such, this Office Action is being made non-final to afford the applicants the opportunity to respond to the new grounds of rejection.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 6 recites the limitation "said fans" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 5-8 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,028,443 to Wade, in view of U.S. Patent 5,228,313 to Okamoto et al. Wade discloses applicant's basic inventive concept, a storage apparatus for boxes containing fruit (see FIG. 5), comprising a cabinet including side walls (12, FIG. 6), a rear wall (12, FIG. 6), front walls (12, FIG. 6), and a cover portion (40), said cabinet having an interior volume of a size sufficient to house a stack of said boxes (col 4, lines 25-36); each of said side walls of said cabinet comprising an outer wall (36), an inner wall (12, FIG. 6) separated from said outer wall by a space (see FIG. 9) and said cover portion being positioned atop the front, side and rear walls (see FIG. 9), said cover portion housing blowers (42) disposed atop air flow channels (of each side wall and conduit means (col 4, lines 65-68) interconnecting said blowers, said channels for fluidly communicating said blowers with said air flow channels, a condenser coil and an air-conditioning apparatus (48, FIG. 7), a return (44, FIG. 5) for directing air from the inner wall (col 5, lines 15-22). substantially as claimed with the exception of said front walls of said cabinet defining an access opening for insertion and withdrawal of one or more of said boxes, a plurality of vertically oriented partitions disposed between said inner and outer walls, said partitions being spaced from one another and being in intimate contact with said inner and outer side walls, so that said inner and outer side walls define, with said partitions, air flow channels, having a plurality of blowers, instead of a single blower, having the a/c unit in the cover portion, not at the bottom, a motor for the blowers, each blower driven by a separate motor and having a plastic and attached closure to block egress of air from the interior of said cabinet. Okamoto shows front

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walls (2 and 20, FIG. 4) of said cabinet defining an access opening (8, FIG. 4), for insertion and withdrawal of one or more of said boxes, a plurality of vertically oriented partitions (51, FIG. 8) disposed between said inner and outer walls, said partitions being spaced from one another and being in intimate contact with said inner and outer side walls, so that said inner and outer side walls define, with said partitions, air flow channels (11A-F, FIG.'s 1-5), having the a/c unit in the cover portion (14, FIG. 1), not at the bottom, a motor (col 3, line 30) for the blowers, each blower driven by a separate motor (12, 13 and 14, FIG. 1) and having a plastic and attached closure (3, FIG. 4) to block egress of air from the interior of said cabinet to be old in the refrigeration art. Also, the applicant should note that even though Okamoto does not disclose a plurality of blowers, a mere duplication of parts has no patentable significance, unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Okamoto to modify the system of Wade, by adding an access opening, a plurality of vertically oriented partitions, a plurality of blowers, an ac unit in the cover portion and having a plastic and attached closure to block egress of air from the interior of said cabinet in order to provide the cold-air circulation space to communicate with the atmosphere and at the same time take in fresh air into the circulation space (col 2, lines 45-52).

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,028,443 to Wade, in view of U.S. Patent 5,228,313 to Okamoto et al., as applied to claim 1 above, and further in view of U.S. Patent 5,312,034 to Nakagawa et al. Wade in view of Okamoto discloses applicant's basic inventive concept, a fruit ripening storage system for boxes, substantially as claimed with the exception of having a plurality of apertures arranged in

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staggered rows, for the fluid flow inside of the boxes. Nakagawa shows staggered rows of apertures (col 8, lines 10-15) for the fluid flow inside of the boxes to be old in the refrigeration art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Nakagawa to modify the system of Wade in view of Okamoto, by adding staggered rows of holes in order to alleviate the flow of the cooling fluid throughout the storage space (col 2, lines 65-67; col 3, lines 10-16).

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,028,443 to Wade, in view of U.S. Patent 5,228,313 to Okamoto et al., as applied to claim 1 above, and further in view of U.S. Patent 5,671,609 to Lionetti. Wade in view of Okamoto discloses applicant's basic inventive concept, a fruit ripening storage system for boxes, substantially as claimed with the exception of having a narrow edge wall portions disposed at an acute angle to said front walls. Lionetti shows a narrow edge wall portions disposed at an acute angle to said front walls (6 and 7, FIG. 3) to be old in the refrigeration art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Lionetti to modify the system of Wade in view of Okamoto, by adding a narrow edge wall portions disposed at an acute angle to said front walls in order to facilitate insertion and withdrawal of boxes (col 5, lines 40-41).

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***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


U.S. Patent 4,736,592 to Ohling, Robert S. teaches an apparatus and method for cooling produce and the like.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (571) 272-4815. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec  
Examiner  
Art Unit 3744

  
**CHERYL TYLER**  
**SUPERVISORY PATENT EXAMINER**

FZ